



## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

**42 CFR Parts 403, 405, 410, 411, 414, 415, 423, 424, and 425**

**[CMS-1751-CN]**

**RIN 0938-AU42**

### **Medicare Program; CY 2022 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-payment Medical Review Requirements; Correction**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** on November 19, 2021 entitled “Medicare Program; CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; and Provider and Supplier Prepayment and Post-Payment Medical Review Requirements” (referred to hereafter as the “CY 2022 PFS final rule”). The effective date of the CY 2022 PFS final rule is January 1, 2022.

**DATES:** This correction is effective January 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** Terri Plumb, (410) 786-4481, Gaysha Brooks, (410) 786-9649, or Annette Brewer (410) 786-6580.

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

In FR Doc. 2021-23972 of November 19, 2021, the CY 2022 PFS final rule (86

FR 64996), there were technical errors that are identified and corrected in this correcting document. These corrections are effective as if they had been included in the CY 2022 PFS final rule. Accordingly, the corrections are effective January 1, 2022.

## **II. Summary of Errors**

### **A. Summary of Errors in the Preamble**

On page 65320, in Table 39: MDPP Payment Structure, lines 7 and 9, we made typographical errors in the final payment rate for Core Maintenance (CM) Session (Months 7-12) for entries Attend 2 Core Maintenance Sessions (No 5% WL) in CM Interval 1 (Months 7-9)) and (Attend 2 Core Maintenance Sessions (No 5% WL) in CM Interval 2 (Months 10-12)).

On page 65324, second column, first partial paragraph, line 26, we made a typographical error in the core maintenance sessions amount.

### **B. Summary of Errors in the Regulations Text**

On page 65668, third column, line 4 contains a typographical error.

On page 65670, second column, line 41 contains a typographical error in the paragraph designation.

On page 65670, second column, lines 44 through 45 contain a typographical error in the paragraph designation.

On page 65673, third column, lines 4 through 5 contain typographical errors.

On page 65673, third column, lines 57 through 58 contain typographical errors.

On page 65673, third column, line 66 contains typographical errors.

### **C. Summary of Errors in the Addenda**

On page 65702, B.1 Allergy/Immunology, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, contains a typographical error.

On page 65725, B.9 Dermatology, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a

typographical error.

On page 65730, B.11 Emergency Medicine, eighth column, seventh full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, contains a typographical error.

On page 65743, B.13 Family Medicine, eighth column, first full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 8, contains a typographical error.

On page 65751, B.14 Gastroenterology, eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a typographical error.

On page 65753, B.15 General Surgery, eighth column, sixth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, contains a typographical error.

On page 65768, B.19 Internal Medicine, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, contain a typographical error.

On page 65779, B.21 Mental/Behavioral, eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a typographical error.

On page 65783, B.22 Nephrology, eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a typographical error.

On page 65787, B.23 Neurology, eighth column, seventh full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a typographical error.

On page 65800, B.26 Obstetrics/Gynecology, eighth column, third full row, Preventive

Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 10, contains a typographical error.

On page 65805, B.27 Oncology/Hematology, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 8, contains a typographical error.

On page 65817, B.29 Orthopedic Surgery, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 8, contains a typographical error.

On page 65824, B.30 Otolaryngology, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, contain a typographical error.

On page 65833, B.33 Physical Medicine, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, contain a typographical error.

On page 65841, B.35 Plastic Surgery eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, contain a typographical error.

On page 65849, B.37 Preventive Medicine, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, contain a typographical error.

On page 65856, B.39 Rheumatology, eighth column, fourth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a typographical error.

On page 65859, B.40 Skilled Nursing Facility, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, contains a typographical error.

On page 65865, B.42 Thoracic Surgery, seventh column, fourth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 8 and 9, contain a typographical error.

On page 65867, B.43 Urgent Care, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, contain a typographical error.

On page 65870, B.44 Urology, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a typographical error.

On page 65875, B.45 Vascular Surgery, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, contains a typographical error.

On page 65967, D.87: Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, the Current Measure Description for Quality # 317 contains a typographical error.

On page 65979, Table B: Changes to Previously Adopted Improvement Activities for the CY 2022 Performance Period/2024 MIPS Payment Year and Future Years, second column, fifth full row, an inadvertent error was made noting the current weighting of this Current Improvement Activity.

On page 65980, Table B: Changes to Previously Adopted Improvement Activities for the CY 2022 Performance Period/2024 MIPS Payment Year and Future Years, second column, fifth full row, an inadvertent error was made noting the weighting of this Finalized Improvement Activity.

On page 65998, footnote 287, an inadvertent error was made noting the section of the rule regarding the MVP implementation timeline.

### **III. Waiver of Proposed Rulemaking**

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (the APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects technical errors in the CY 2022 PFS final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed, subject to notice and comment procedures, and adopted in the CY 2022 PFS final rule. As a result, the corrections made through this correcting document are intended to resolve inadvertent errors so that the rule accurately reflects the policies adopted in the final rule. Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and

comment procedures to incorporate the corrections in this document into the CY 2022 PFS final rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received public comment on, and subsequently finalized in the final rule. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

#### **IV. Correction of Errors**

In FR Doc. 2021-23972 of November 19, 2021 (86 FR 64996) make the following corrections:

##### A. Correction of Errors in the Preamble

1. On page 65320, in Table 39: MDPP Payment Structure, lines 7 and 9, the listed entries are corrected to read as follows:

<b>Core Maintenance (CM) Sessions (Months 7-12)</b>			
Attend 2 Core Maintenance Sessions (No 5% WL) in CM Interval 1 (Months 7-9)	\$15	\$52	\$70
Attend 2 Core Maintenance Sessions (No 5% WL) in CM Interval 2 (Months 10-12)	\$15	\$52	\$70

2. On page 65324, second column, first partial paragraph, line 26, the phrase that reads “sessions to from \$52.00 to \$75.00.” is corrected to read “sessions from \$52.00 to \$70.00.”

##### B. Correction of Errors in the Regulations Text

###### **§ 414.84 [Corrected]**

1. On page 65668, third column, in § 414.84, in paragraph (b)(4)(ii)(A), the text “December 31, 2022 the amount is \$75” is corrected to read “December 31, 2022 the amount is \$70.”.

###### **§ 414.1305 [Corrected]**

2. On page 65670, second column, in § 414.1305, in the definition of “MIPS eligible clinician,” the second paragraph (3)(ii) and paragraph (3)(vii) are redesignated as paragraphs

(3)(iii) and (iv), respectively.

**§ 414.1380 [Corrected]**

3. On page 65673, third column, in § 414.1380:

i. In paragraph (b)(1)(i) introductory text, the text “the CY 2017 through 2021 performance periods/2019 through 2023 MIPS” is corrected to read “the CY 2017 through 2022 performance periods/2019 through 2024 MIPS”.

ii. In paragraph (b)(1)(i)(A)(I):

A. The text “the CY 2017 through 2021 MIPS performance periods/2019 through 2023” is corrected to read “the CY 2017 through 2022 performance periods/2019 through 2024”.

B. The text “CY 2022 performance period/2024” is corrected to read “the CY 2023 performance period/2025”.

**C. Correction of Errors in the Addenda**

1. On page 65702, B.1 Allergy/Immunology, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, the phrase “pre-hypertensive” is corrected to read “elevated”.

2. On page 65725, B.9 Dermatology, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the phrase “pre-hypertensive” is corrected to read “elevated”.

3. On page 65730, B.11 Emergency Medicine, eighth column, seventh full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, the phrase “pre-hypertensive” is corrected to read “elevated”.

4. On page 65743, B.13 Family Medicine, eighth column, first full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

5. On page 65751, B.14 Gastroenterology, eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the



phrase “pre-hypertensive” is corrected to read “elevated”.

6. On page 65753, B.15 General Surgery, eighth column, sixth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, the phrase “pre-hypertensive” is corrected to read “elevated”.

7. On page 65768, B.19 Internal Medicine, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

8. On page 65779, B.21 Mental/Behavioral, eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the phrase “pre-hypertensive” is corrected to read “elevated”.

9. On page 65783, B.22 Nephrology, eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the phrase “pre-hypertensive” is corrected to read “elevated”.

10. On page 65787, B.23 Neurology, eighth column, seventh full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the phrase “pre-hypertensive” is corrected to read “elevated”.

11. On page 65800, B.26 Obstetrics/Gynecology, eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 10, the phrase “pre-hypertensive” is corrected to read “elevated”.

12. On page 65805, B.27 Oncology/Hematology, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

13. On page 65817, B.29 Orthopedic Surgery, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

14. On page 65824, B.30 Otolaryngology, eighth column, second full row, Preventive

Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

15. On page 65833, B.33 Physical Medicine, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

16. On page 65841, B.35 Plastic Surgery eighth column, third full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

17. On page 65849, B.37 Preventive Medicine, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

18. On page 65856, B.39 Rheumatology, eighth column, fourth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the phrase “pre-hypertensive” is corrected to read “elevated”.

19. On page 65859, B.40 Skilled Nursing Facility, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 6, the phrase “pre-hypertensive” is corrected to read “elevated”.

20. On page 65865, B.42 Thoracic Surgery, seventh column, fourth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 8 and 9, the phrase “pre-hypertensive” is corrected to read “elevated”.

21. On page 65867, B.43 Urgent Care, eighth column, second full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, lines 7 and 8, the phrase “pre-hypertensive” is corrected to read “elevated”.

22. On page 65870, B.44 Urology, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the phrase “pre-hypertensive” is corrected to read “elevated”.

23. On page 65875, B.45 Vascular Surgery, eighth column, fifth full row, Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, line 7, the phrase “pre-hypertensive” is corrected to read “elevated”.

24. On page 65967, D.87: Preventive Care and Screening: Screening for High Blood Pressure and Follow-up Documented, second column, Description, sixth full row, Current Measure Description, line 2, the phrase “pre-hypertensive” is corrected to read “elevated”.

25. On page 65979, Table B: Changes to Previously Adopted Improvement Activities for the CY 2022 Performance Period/2024 MIPS Payment Year and Future Years, second column, IA\_AHE\_1, fifth full row, of this Current Improvement Activity, Current Weighting, the phrase “Medium” should be corrected to read “High”.

26. On page 65980, Table B: Changes to Previously Adopted Improvement Activities for the CY 2022 Performance Period/2024 MIPS Payment Year and Future Years, second column, IA\_AHE\_1, fifth full row, of this Finalized Improvement Activity, Weighting, the phrase “Medium” should be corrected to read “High”.

27. On page 65998, footnote 287, that reads “See section IV.A.3.b.(2)(d) of this final rule for additional details regarding the MVP implementation timeline” is corrected to read: “See section IV.A.3.b.(2)(c) of this final rule for additional details regarding the MVP implementation timeline.”

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**Karuna Seshasai,**

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